

## **REMARKS**

Examiner Shafer notified Applicant in an action dated December 12, 2004 that the Response to Office Action filed on September 29, 2004 was not fully responsive because Applicant did not distinctly and specifically point how the language of the claims are patentably distinguished over the rejection of claims 1-5, 8, 9, 11, 12, 14, 16, 17 and 21 under 35 U.S.C. § 102(b) as being anticipated by Nagayama, et al. as set forth in item 5 of the Office Action mailed on June 29, 2004. Applicant kindly thanks Examiner Shafer for providing Applicant with one month to remedy the previously filed response to Office Action. Applicant has submitted herein the entire contents of the last Response with an additional section responding to item 5 of the office action mailed on June 29, 2004. This response to item 5 can be found at the end of 35 U.S.C. § 102(b) section which just prior to the allowable matter section.

### **Status of the Claims**

Claims 1-3, 5-21 are pending in this application.

Claims 1-17 and 21 are rejected.

Claims 18-20 are objected to.

Claim 4 has been canceled, without prejudice.

Claims 1, 16 and 17 have been amended. Support for these amendments can be found throughout the specification, claims, and drawings, as originally filed.

### **Rejection of Claims 1-17 and 21 Under 35 U.S.C. § 102(b)**

Claims 1 and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent number 5,042,932 (hereafter the '932 patent) issued to Pent. Claims 1-3 and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent number 4,678,295 (hereafter the '295 patent) issued to Fisher. Claims 1, 2 and 4-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by Published German Patent Application DE 3524255A1 (hereafter the '255 application) submitted by Fuhr. Claims 1-5, 8, 9, 11, 12, 14, 16, 17 and 21 were rejected under 35 U.S.C. §102 (b) as being anticipated by U.S. Patent number 5,274,505 (hereafter the '505 patent) issued to Nagayama, et al.

With respect to the rejection of claims 1 and 16 under 35 U.S.C. § 102(b) as being anticipated by the '932 patent, Applicant respectfully traverses the rejection in view of the amendments made to claims 1 and 16. The Office Action indicated that the '932 patent disclosed each and every element of claims 1 and 16. However, Applicant has currently amended claims 1 and 16 to include a pair of walls forming part of the aperture with one of the walls being resiliently moveable. Applicant submits that the '932 patent does not disclose this feature. The Office Action indicated that the '931 patent has apertures located at reference numbers 24 on Figure 1. The specification of the '932 patent states that "the pinion 16 meshed with respective racks 20 formed on two operating ends 22 which are mounted for sliding in guides 24 integrally which are formed of one piece construction with the support body 2." Col. 2, Lines 4-8. This means that the guides 24 are one piece members and do not contain any walls that move resiliently, therefore, the '932 patent does not anticipate each and every element

of claims 1 and 16 as currently amended. Additionally, given the fact that the guides 24 in the '932 patent are one piece members formed integrally with the support body 2 it would not have been obvious to one of ordinary skill in the art at the time of the invention to alter the '932 patent since making one of the walls of the guides 24 resiliently moveable would clearly alter the structure of the '931 patent. For all of the above reasons, Applicant respectfully requests that the rejection of claims 1 and 16 of the '932 patent under 35 U.S.C. § 102(b) be removed.

Claims 1-3 and 16 were rejected under 35 U.S.C. §102(b) as being anticipated by the '295 patent. The Office Action indicated that Fisher discloses all of the elements of independent claims 1 and 16 and further discloses the elements of dependent claims 2 and 3 that are directed to the link assembly having a ball and socket configuration. Applicant has reviewed the '295 patent and has determined that the '295 patent does not anticipate each and every element of currently amended independent claims 1 and 16. As amended, claims 1 and 16 define the aperture as having a pair of walls with one of the walls being resiliently moveable. Applicant respectfully traverses the rejection of claims 1-3 and 16 with respect to the '295 patent since the '295 patent does not disclose the feature an aperture having a pair of walls with one of the walls being resilient and moveable. The '295 patent discloses in Fig. 6 a link 14 that is moveable within an aperture which is shown as a threaded opening for element 14 in Fig. 2. The specification of the '295 patent does not disclose the aperture as having a pair of walls with one of the walls being resiliently moveably. The association between the link and the aperture can be best shown and described with reference to Fig. 5 in the '295 patent. The specification of the '295 patent states that "as shown in Figs. 4 and 5, the housing 50 has an elongated bore 52 which is smooth to provide a surface on which the

potentiometer shaft 44 can travel. An elongated opening or slot 54 is located in one side of the bore 52...Guide means 56 extends about the periphery of the potentiometer shaft 44 and has a cross-sectional diameter slightly greater than that of shaft 44, permitting only the guide means to contact the interior walls 58 of the elongated bore 52." Col. 4, Lines 41-52. The specification of the '295 patent does not disclose the interior walls 58 of the elongated bore 52 as being resiliently moveable. Furthermore, Fig. 4 of the '295 patent shows the elongated bore 52 as being a single piece unit with solid walls, therefore, it would not be obvious to one of ordinary skill in the art at the time of the invention to make one of the walls of the bore 52 be resiliently moveable without having to significantly alter the structure of the invention. It is respectfully submitted that claims 1 and 16 as currently amended are not anticipated by the '295 patent. Furthermore, claims 2-3 which depend from claim 1 would also not be anticipated by the '295 patent since both of these dependent claims depend from claim 1 which is not anticipated by the '295 patent. Applicant respectfully requests that the rejection of claims 1-3 and 16 in view of the '295 patent be removed.

Claims 1, 2 and 4-15 were rejected under 35 U.S.C. § 102(b) as being anticipated by the '255 application. The '255 application is a German application whose specification is written completely in German with an English abstract. The '255 application is directed to a sighting mirror for a periscope in an armored vehicle. The sighting mirror is fitted with dampening device. Applicant has reviewed the Figures in the '255 application and has determined that claims 1 and 16 as currently amended are not anticipated by the '255 application, therefore, Applicant traverses this rejection of claims 1, 2 and 4-15 under 35 U.S.C. § 102(b) as being anticipated by the '255 application.

The '255 application does not disclose an aperture having a pair of walls with one of the walls be resiliently moveable. The Office Action indicated that the aperture 33 shown in Fig. 3 and Fig. 5 for receiving the link shown in Fig. 1 includes a pair of moveable walls 22, 23 shown in Fig. 3 and in Fig. 5. Applicant maintains that the walls 22 and 23 of the aperture 33 shown in Figs. 3 and 5 are not resiliently moveable. Applicant notes that Fig. 3 shows elements 36 and 28 passing through wall portions 22 and 23. Elements 36 and 28 are defined in the specification as being "schrauben", which translates to the English word "screw". The view shown in Fig. 3 shows the screw elements 28 and 36 as holding the walls 22 and 23 together about the link portion that slides between the walls 22 and 23. Therefore, the walls 22 and 23 are not resiliently moveable and thus cannot anticipate claims 1 and 16 as currently presented. Additionally, it would also not be obvious to alter the structure of the walls 22 and 23 since locking the walls 22 and 23 in place is necessary in order to form the aperture for receiving the link portion. Therefore, Applicant respectfully requests that the rejection of claims 1, 2 and 4-15 be removed since clearly these claims cannot be anticipated by the '255 application.

The Office Action rejected claims 1-5, 8, 9, 11, 12, 14, 16, 17, and 21 under 35 U.S.C. § 102(b) as being anticipated U.S. Patent No. 5,274,505 (hereafter the '505 patent) issued to Nagayama, et al. With respect to the rejection of claims 1 and 16 under 35 U.S.C. § 102(b) Applicant respectfully traverses the rejection of the amendments made to these claims. The Office Action indicated that the '505 patent disclosed each and every element of claims 1 and 16. However, Applicant has currently amended claims 1 and 16 to include a pair of walls forming part of the aperture with one of the wall being resiliently moveable. Furthermore claims 1 and 16 specify that there is

a tight sliding fit between the pair of walls of the aperture or apertures and the links. Applicant submits that this is not present in the '505 patent. The Office Action states that the threaded piece 122 of the '505 patent moves resiliently. However, Applicant points out that the threaded piece 122 is not the pair of walls that is tight sliding fit with the link member or members. The specification of the '505 patent indicates that "the reference numeral 12 indicates a nut member engaging the plunger 52 and which moves it. This nut member 12 has formed therein an internal thread 121 engaging the external thread 54..." See Col. 6, Lines 6-9. This means that the internal thread 121 is in tight sliding fit with the link member or members. There is nothing in the specification of the '505 patent that discloses the internal thread 121 being resiliently moveable. Therefore, for all of the above reasons Applicant maintains that claims 1 and 16 of the present application are not anticipated by the '505 patent. Applicant respectfully requests removal of the rejection of independent claims 1 and 16 and allowance thereof. Furthermore, dependent claims 2-5, 8, 9, 11, 12, 14, 17 and 21 are either dependent directly upon or ultimately dependent from independent claims 1 and 16 of the present application, therefore, Applicant requests removal of the rejections of the these claims since they are patentable by virtue of their dependency upon independent claims 1 and 16. Allowance of the dependent claims is also respectfully requested.

#### **Allowable Matter**

The Office Action indicated that claims 18-20 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, and any intervening claims. Applicant kindly thanks Examiner for indicating that these claims would be

allowable if rewritten in independent form. As such, Applicant has amended claim 18 to include all of the limitations of dependent claim 17 and independent claim 16 from which claim 18 depends. Applicant does wish to note that claim 18 also includes the element of a pair of apertures, which were missing from claim 16. This resolves an antecedent basis problem that previously existed with respect to claim 16. Claim 19 depends upon claim 18 thus, both claims 18 and 19 are not in allowable format. Claim 20 has also been amended to include the limitations of dependent claim 17 and independent claim 16 both of which claim 20 depends from. Applicant now believes that claim 20 is in allowable form.

### **CONCLUSION**

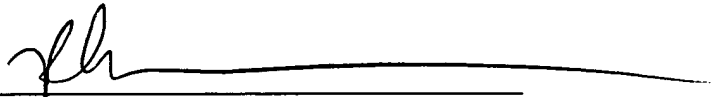
It is respectfully submitted that the rejection of claims 1-17 and 21 have overcome and these claims are now in allowable form. It is further submitted that in view of claims 18-20, which have been objected to are now in allowable form. Therefore, Applicant submits that all the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

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